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June 5, 2008

Clerk of the Board
Air Resources Board
1001 I Street
Sacramento, CA 95814

Ladies and Gentlemen,

Subject: Comments on Modified Regulation for the Mandatory Reporting of
Greenhouse Gas Emissions (Supplemental 15-day Comment Period)

The Los Angeles Department of Water and Power (LADWP) is committed to working in partnership with the State and other stakeholders to achieve the goals of Assembly Bill 32 (AB32) and reduce greenhouse gas emissions to 1990 levels by 2020. Accurate and consistent accounting of emissions is a cornerstone of the AB32 program. LADWP actively participated in workshops and submitted comments during the year long process to develop the Regulation for the Mandatory Reporting of Greenhouse Gas Emissions, which the Air Resources Board (ARB) adopted in December 2007.

LADWP appreciates the changes the ARB staff has made to the regulation to address some of the issues and concerns we and other stakeholders raised, and for their open-door policy and willingness to discuss implementation issues and to answer questions. In our previous comments, we included a number of concerns related to the proposed "emission attribution methods" that will be applied to data collected under the mandatory reporting program to determine emissions responsibility. We understand from discussions with staff that ARB is planning to address the emission attribution equations as part of future rulemaking. We agree the emission attribution methods need to go through the formal rulemaking process so they can be fully vetted by stakeholders. In addition, the mandatory reporting regulation will need to be revised to remove unnecessary reporting requirements once the point of regulation for the electricity sector is decided. We look forward to working with ARB staff and other stakeholders in the future to further refine the emission reporting requirements and revise the emission attribution equations.

Regarding the current proposed modifications to the mandatory reporting regulation, we appreciate the opportunity to review the changes and submit the following comments and clarifications for your consideration:

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1) Clarify that "region of destination" is "point of delivery"

Several sections of the regulation require reporting the "region of destination" for electricity transactions, wholesale sales, and wholesale power exports. The term "region of destination" is ambiguous because it may refer to the point of delivery or the ultimate destination for the power. Since a seller of wholesale power may not know where the power will ultimately be consumed, we suggest that this term either be replaced by "point of delivery", or clarify that "region of destination" is based on "point of delivery". [Note: "region of destination" appears in multiple places in section 95111 of the regulation, including (a)(K), (b)(1)(A), (b)(2)(E) & (b)(2)(F).]

2) Share of emissions from partially owned generating facilities should be calculated based on MWh received rather than ownership share

Section 95111(b)(3)(Q) of the regulation requires that retail providers report percent ownership share and facility net generation (MWh) for fully or partially owned generating facilities. We suggest adding that retail providers should also report MWh received from these facilities if they have not already reported it as an electricity transaction.

We'd also like to reiterate our previous comment that it is more accurate to calculate each participant's share of emissions from a jointly (partially) owned generating facility based on MWh received rather than estimating what they received by multiplying their percent ownership share by facility net generation. We appreciate the fact that "Ownership Share Differential" and "Adjusted Ownership Share Differential" have been deleted from the regulation, but are still somewhat concerned that percent ownership share may be used to assign responsibility for emissions. We'd like to emphasize that emissions should be based on MWh received from all generating resources (both owned and purchased power) for accuracy and consistency.

3) Recommend late fees instead of daily violations for missing reporting or verification deadlines

Section 95107(b) of the mandatory reporting regulation states that failure to submit any report or include all information required in the report by the specified reporting dates "shall constitute a single, separate violation" for each day. This would apply to emissions data reports, the verification opinion, or any other document required to be submitted. During workshops and in previous comments, LADWP recommended that the deadline for submitting the verification opinion should not be subject to enforcement, since issues beyond the control of the reporter may arise during the verification process that require extra time to resolve.

Rather than imposing daily violations for late reports or missing information, we believe the policy used by the local air districts for late submittal of emission reports is more reasonable and appropriate. For example, if a reporter does not submit their emissions report and fees to the South Coast Air Quality Management District (SCAQMD) by the deadline, SCAQMD charges escalating late fees rather than treating it as a violation. [See SCAQMD Rule 301(e)(10)]

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Considering the fact that ARB's mandatory greenhouse gas emissions reporting program is new and many reporters will be submitting and verifying their greenhouse gas emissions reports for the first time, we believe daily violations should not be applied to late submittal of emissions data or verification opinions. A nominal late fee or other means of encouraging compliance would be more appropriate.

We thank you for your consideration of these comments. Please feel free to contact Ms. Cindy Parsons of the Air Quality Group at (213) 367-0636 regarding these comments or if you would like additional information.

Sincerely,

A handwritten signature in black ink, reading "Mark J. Sedlacek". The signature is fluid and cursive, with the first name "Mark" and last name "Sedlacek" clearly legible.

Mark J. Sedlacek
Director of Environmental Services

c: Cindy Parsons
Richard Bode, ARB
Doug Thompson, ARB
Pam Burmich, ARB